

analysis, then the toll and operator services costs would also have to be included. The Commission recognizes that when payphone providers, whether U S WEST or a competitive payphone provider, choose where to place a payphone their decision does not hinge solely upon whether \$0.25 per call covers all of the costs of providing payphone service. Obviously, the provider takes into account all of the expected revenues and expenses to be incurred, including toll and operator services revenues. However, none of the parties presented evidence that included both the revenues and costs for these services in their imputation analysis.

Second, by limiting the imputation test to local payphone revenues (\$0.25 per call) the Commission specifically addresses the concerns of the complainants that the relationship between the PAL rate and the local calling rate of \$0.25 per local call is creating a price squeeze. If the \$0.25 per local call is greater than the imputation price floor, then a price squeeze is not occurring. Conversely, if the \$0.25 per local call is less than the imputation price floor, then a price squeeze is occurring.

The proper payphone imputation analysis includes the following expense elements: (1) the tariffed public access line rate and extended area service additive; (2) the federally-mandated subscriber line charge; (3) the tariffed rate for Answer Supervision - Line Side<sup>17</sup> (AS-LS) and Billed Number Screening;<sup>18</sup> (4) amortization of non-recurring charges;<sup>19</sup> (5) amortization of

---

<sup>17</sup> Answer Supervision - Line Side (AS-LS) service sends a signal to a vendor's payphones indicating that a call has been answered. This allows less software to be built into a payphone instrument, and provides more accurate timing of calls for billing, coin collection, and coin return by the vendor's payphone. AS-LS is a feature that can be added to current public access lines that originate from certain central offices.

<sup>18</sup> U S WEST's response to complainant's Fourth Data Requests, Data Request No. 51, stated:

Currently, USWC imputes the monthly Public Access Line, usage, End User Access Charges, Touchtone (where tariffed rates exist), Answer Supervision Line Side (where tariffed rates exist), and Billed Number Screening rates to its payphone services.

<sup>19</sup> The service order and line connection cost is calculated by taking the non-recurring charges assessed a PAL subscriber for both the access line and the answer supervision-

the terminal equipment and enclosures costs;<sup>20</sup> (6) long-run incremental costs for sales, public administration, advertising, refunds, and coin collection;<sup>21</sup> and (7) access line surcharges such as Enhanced 9-1-1 (E911), Washington Telephone Assistance Program (WTAP) and Telecommunications Relay Service (TRS).

The specific items and the revenues and expenses excluded from the proper imputation analysis include: (1) "public policy" phones; (2) directory assistance revenues and expenses; (3) U S WEST Direct<sup>22</sup> revenues; and (4) toll and operator services revenues and expenses. Public policy phones were excluded based on the fact that public policy phones have not been defined in the state of Washington. Directory assistance, toll and operator services revenues and expenses were all excluded.

In the Commission's analysis, one adjustment has been made with respect to commission expense.<sup>23</sup> The commission expense has been adjusted to reflect the fact that commissions are based on total intraLATA revenues, including non-sent paid operator and toll revenues. Mr. Lanksbury stated for U S WEST that:

U S WEST does use all local, operator assisted call and intraLATA toll revenues as a measurement for paying rental for a location, but those rental costs are considered to be a local service cost and are not allocated to the toll and operator costs.

---

line side service and converting those charges into a monthly charge. This is the same process used by U S WEST on pages TE-10A through TE-10G of Tab S of the "1991 Cost Workpapers."

<sup>20</sup> Terminal equipment costs were taken from NWPPA witness Dr. Cornell's Confidential Exhibit C-3, and were based on U S WEST's PUBLIC TELEPHONE SERVICE, SUMMARY OF COSTS, STUDY YEAR: 1991, STATE: WASHINGTON.

<sup>21</sup> These costs were included in Dr. Cornell's imputation analysis, Confidential Exhibit C-3.

<sup>22</sup> A wholly-owned subsidiary of U S WEST Communications which publishes the U S WEST white and yellow page directories.

<sup>23</sup> Commission expense is the revenue paid a location owner by the payphone provider for rental of the space occupied by the payphone.

If the Commission excludes the toll and operator services revenues in the imputation analysis, then it must be consistent and exclude the expenses related to those revenues.<sup>24</sup> The Commission has adjusted the commission expense by 30 percent based on the percentage of revenues the competitive payphone providers claimed to be other than local.

Based upon this imputation test, the cost of a local call is greater than \$0.25 per call. The Commission believes the complainants have substantiated their allegation that they are subject to a price squeeze in the public payphone market.

## 2. Price squeeze remedies

To end the alleged price squeeze the complainants proposed new rates for three U S WEST monopoly service elements: (1) reduce the PAL rate by \$8.94, from \$28.45 to \$19.51; (2) reduce the message rate from \$0.06 per call to \$0.03 per call (after the 300th call); and (3) reduce the monthly recurring rate for AS-LS from \$3.95 to \$1.00.

Although the Commission has determined that a price squeeze is in fact occurring, it will not order U S WEST to reduce its PAL rates to \$19.51 as proposed by the complainants. In order to eliminate the price squeeze, the Commission orders U S WEST to reduce its monthly recurring PAL rate to the existing recurring simple business line rate in each rate group.<sup>25</sup> In addition, U S WEST is ordered to reduce the recurring rate for AS-LS from \$3.95 to \$1.00.

The Commission bases the reduction in the PAL rate on two factors. First, the elimination of the usage cost combined with the reduction in the AS-LS rate results in the current rate of \$0.25 per local call passing the imputation test. Second, it was evident from the record that all parties consider a public access line technically and functionally equivalent to a business line. In fact, U S WEST argued on brief that the PAL provides the same thing as a business line -- local exchange access. The Commission therefore believes it is appropriate to reduce the PAL rate to the simple business rate, but no lower. The Commission agrees with U S WEST that a reduction below the simple business line rate would create a rate anomaly, discriminate against business customers, and create yet another opportunity for tariff arbitrage.

---

<sup>24</sup> The commission expense imputed by all parties was based on total intraLATA revenues, including non-sent paid toll and operator services.

<sup>25</sup> As of the date of the instant order, the monthly recurring simple business line rates are as follows: Rate Group 1 - \$18.40; Rate Group 2 - \$23.10; and Rate Group 3 - \$26.20.

The reduction in the AS-LS rate is also based on two factors. First, the requirement to pass an imputation test and eliminate the price squeeze. As stated previously, the combination of the reduced PAL rate and the reduced AS-LS rate results in the elimination of the price squeeze.<sup>26</sup> Second, U S WEST's marketing study showed a significantly higher demand for AS-LS at a price much lower than the tariffed rate of \$3.95.<sup>27</sup> Not only has demand been constrained by the tariffed rate, but the study also showed that the revenue maximizing price is substantially lower than the tariffed rate. Therefore, the Commission agrees with NWPPA witness Dr. Cornell's recommendation that the tariffed recurring rate be reduced to \$1.00.

### 3. Preventing reoccurrence

To prevent the price squeeze from re-occurring, the complainants present two alternatives: (1) ordering U S WEST to put its payphone operations in a separate subsidiary; or (2) requiring U S WEST to file an imputation cost study annually, using Dr. Cornell's methodology, and disallow any losses for rate-making purposes.<sup>28</sup>

The complainants argue that a separate subsidiary is the most effective way of ensuring that U S WEST's payphones and the CPP's payphones all receive monopoly services on the same terms and conditions. U S WEST argues that RCW 80.04.270<sup>29</sup>

---

<sup>26</sup> It seems quite evident from a public policy viewpoint that if the option is either to raise rates to end-users or to reduce the cost of inputs to competitors, the Commission should advocate the latter whenever feasible.

<sup>27</sup> See, Confidential Exhibit C-25, RE: COIN MARKET DEMAND ANALYSIS, December 6, 1991.

<sup>28</sup> Under this regimen, U S WEST would be required to perform annual cost studies to verify that the price charged for its payphone service covers all costs of providing that service, including the full tariffed rates that CPPs pay for all "bottleneck" monopoly inputs used to provide their service. If these studies showed that the price charged by U S WEST failed to cover costs, the losses would have to go below the line, rather than forming part of the revenue requirement.

<sup>29</sup> RCW 80.04.270 provides in relevant part:

Any public service company engaging in the sale of merchandise or appliances or equipment shall keep separate accounts, as prescribed by the commission, of its capital employed in such business and of its revenues therefrom and operating expenses thereof. The capital employed

gives the Commission power only to require an accounting separation of non-utility services or products offered by a regulated company.

While the Commission believes the concept of ordering the company to put its payphone operations into a separate subsidiary may have merit, we are unwilling to mandate such a separation at this time. The Commission believes there are too many questions, from both a policy and an accounting perspective, which have yet to be fully explored on a proper record, to determine if ordering a separate subsidiary for the company's payphone operations is in the public interest.

Additionally, the Commission believes that an annual imputation cost study is not required. The Commission is confident that the indicated price squeeze has been corrected by our decisions in the instant order. Any future increase in the PAL rate, which is the majority of the CPP's network costs, would have to be approved by the Commission, and the NWPPA and its members could intervene and argue their case for a new imputation cost analysis. The Commission must abstain from imposing unnecessary and overly burdensome reporting requirements, unless the public interest is clearly affected and can be remedied by such requirement. If a U S WEST rate case is conducted in the future, nothing prohibits a party to that proceeding from addressing issues of the reasonableness of an expense item, such as imprudent commission payments to location providers, and advocating exclusion of that expense from recovery in the company's revenue requirement.

#### 4. Other price squeeze issues

In addition to the price squeeze evidenced by the imputation cost analysis, the NWPPA complains that a price squeeze is created through the interaction of the compensation paid by U S WEST to location providers to place a payphone, and the revenue sources from which that compensation is made. The complainants recommend therefore that the Commission require U S WEST to compensate PAL subscribers for non-sent paid calls. The amount of compensation should be at the same level as the highest commission paid by U S WEST to a site owner with a comparable volume of traffic.

---

in such business shall not constitute a part of the fair value of said company's property for rate making purposes, nor shall the revenues from or operating expenses of such business constitute a part of the operating revenues and expenses of said company as a public service company.

U S WEST maintains that the decision to pay compensation for delivery of toll or operator-assisted traffic to U S WEST by non-regulated payphone providers is a business decision that cannot be mandated by a regulatory agency. U S WEST urges there are extensive revenue generating opportunities from other providers of toll and operator services available to competitive payphone providers. Therefore, U S WEST reasons that complaints about these revenues not being made available to CPPs are at best irrelevant.

The Commission agrees with U S WEST on both counts. Based on the record in this case, the Commission does not believe that it should mandate that competitive payphone providers are entitled to any compensation from U S WEST for non-sent paid calls. It is a business decision that should be the province of U S WEST alone. Part of the reason consumers have an overwhelming preference for U S WEST's calling card or credit card calls stems from past negative experience with alternative operator services providers. U S WEST should not be required to compensate its competitors for consumers' reactions to prior abuses by the alternative operator services industry.

### III. Discrimination in Service Provision

#### A. Availability of Service

The NWPPA also alleges that U S WEST discriminates between the services it provides CPPs and those it provides its own payphone operations. This includes differences in how quickly public access lines are provisioned, access to customer proprietary network information, and the actual services provided CPPs compared to those which serve U S WEST payphones.

A principal concern of the Commission is whether U S WEST provides CPPs with services and features equal in quality to those used by U S WEST in its own payphone operations. "Coin Line" service is a primary example.<sup>30</sup> By not providing Coin Line service, a service U S WEST provides itself, U S WEST forces

---

<sup>30</sup> Coin Line service is a central office based line very similar to that utilized by U S WEST in its payphone operations. A Coin Line sends signals to the payphone instrument which detect coin deposit, coin collection or return (depending on whether or not the call was completed), and additional coins needed during toll calls. Currently these functions must be programmed into the payphone instrument, because the Public Access Line U S WEST sells the CPPs does not differ functionally from a simple business line.

the CPPs to incur additional capital investment.<sup>11</sup> With Coin Line service, U S WEST operators get screening information "hard coded" into the automatic number identification (ANI) stream. Without further effort, the operator knows the call is being placed from a payphone. With PAL screening, there is no screening information in the ANI stream. Instead, the alternative operator services provider is signaled that it must undertake a data base inquiry. U S WEST in turn charges the operator services provider for that data base inquiry. The following is the response of U S WEST witness Mr. Lanksbury to counsel for NWPPA:

- Q. Would you please explain for the record how originating call screening works from a U S WEST payphone?
- A. Originating call screening from a U S WEST payphone is part of the ANI -- auto number identification -- indication to the operator and it's hard-coded into the ANI stream of number to allow the operator when the call comes in to see that the call is placed from a U S WEST payphone.
- Q. Now please explain for the record how originating call screening works from a PAL line, from a competitive payphone.
- A. The code similarly comes into the operator, although the code indicates to the operator that they will have to do a look-up in the billing validation system to see that this is in fact a payphone. It's a screening function that requires them, one, to see that they need to do a look-up and then to subsequently do the look-up. TR pp. 689-690.

The NWPPA urges the Commission to order U S WEST to provide a Coin Line service similar to what it provides itself. U S WEST responds that, like AS-LS, there is neither genuine demand nor willing purchasers for such a service even if U S WEST were to offer it.

There are significant problems with U S WEST's claim that there is no real demand for Coin Line service and AS-LS. First, these are services that the company already provides itself. By not providing a similar service to competitive payphone providers, U S WEST has granted itself undue preference

---

<sup>11</sup> This additional capital investment is due to the extra functionalities built into the payphone instrument, e.g., automatic polling and answer supervision.

or advantage in the public payphone market. The company's unwillingness to offer these services forces CPPs to invest in more expensive "smart" payphones. Therefore, demand now may be limited due to the investment in smart phones already incurred by competitive payphone providers.

Second, U S WEST's own studies show there is in fact some level of interest in these services at a reasonable price.<sup>32</sup> However, with AS-LS, for example, U S WEST elected to price the service at a rate that severely restricted demand.

In order to limit U S WEST's ability to discriminate between the network services it provides itself and those it provides competitors, the Commission orders U S WEST to respond in writing to all legitimate requests for those network services from competitive payphone providers within 120 days. U S WEST shall implement the request by offering the service under tariff, if the service is feasible based on currently available technology and if forecasted demand is sufficient to allow U S WEST to recover its cost. U S WEST shall implement the request as soon as practical and in any event no later than 6 months following the receipt of the customer's request.<sup>33</sup>

B. Repair and Refund Service

The complaint alleges that U S WEST's operators discriminate between their payphones and competitors' payphones. When an end-user calls a U S WEST operator from a U S WEST payphone to request repair service or a refund, the operator's equipment indicates the call is coming from a U S WEST payphone. By contrast, if an end-user calls a U S WEST operator from a competitor's payphone, the operator's equipment provides no information about the payphone. The only assistance the U S WEST operator can offer is to suggest that the caller look on or near the payphone for a referral card or sticker. On this subject, the U S WEST witness Mr. Lanksbury testified:

Q. Is there any service that U S WEST offers to competitive payphone providers that would allow U S WEST's operators to handle refund and repair requests the same way that U S WEST operators handle those calls from their own payphones?

---

<sup>32</sup> See, Confidential Exhibit C-25.

<sup>33</sup> The complainants requested that U S WEST be given a deadline of not more than six months to offer magnetic billing to PAL subscribers.



- A. No, there's not. There are other ways that the vendor can handle their repair outside the U S WEST operator. TR pp. 672-673

The NWPPA asks the Commission to order U S WEST's operators to handle payphone repair and refund requests in the same manner for both CPPs and U S WEST. The Commission believes its decision requiring U S WEST to offer services within 6 months of a request from a CPP, as more fully discussed in the preceding section, provides an opportunity for the parties to undertake discussions which could lead to a satisfactory resolution of the repair and refund service problem.

C. Service Requests and Misuse of Customer Proprietary Network Information

The complaint alleges that U S WEST delays the installation of public access lines. U S WEST witness Mr. Lanksbury testified the company has never marketed to location providers based on information obtained from orders for public access lines. He maintained that U S WEST has policies in place to prevent use by its payphone marketing personnel of PAL service order information received by vendor service marketing personnel.

In spite of U S WEST's claims of "safe harbor" policies to preclude any advantage over its competitors, the NWPPA argues that U S WEST continues to retain an advantage. According to the complaint, the ability to delay installation of an access line is an advantage that only U S WEST, and no other competitor, can have. Any contract or arrangement that would permit U S WEST to exploit this monopoly advantage to the detriment of its competitors should be declared void as against public policy. When U S WEST receives a PAL work order, it should promptly complete the order.

In response to questions from complainants' counsel, company witness Mr. Lanksbury testified:

- Q. As I understand it, both the public access line team, if you will, and the U S WEST account executives have access to the same computer system of U S WEST?
- A. That would be correct.
- Q. And they share a database that shows records for both U S WEST payphones and public access lines; is that correct?
- A. The database shares records for virtually all accounts. It covers residence, business, PAL lines and public telephones, yes. TR. 746-747.

NWPPA witness Mr. Coulson stated in his direct testimony that U S WEST no longer markets to location providers based on information obtained from PAL orders. However, in Mr. Coulson's supplemental direct and rebuttal testimony there is a lengthy discussion of U S WEST's contract with Southland Corporation and the problems encountered when a CPP attempted to install a payphone at a Seven-Eleven convenience store. If the Commission doesn't order U S WEST to put its payphone operations into a separate subsidiary, Mr. Coulson recommends the Commission prohibit U S WEST's vendor services from ever giving any information about PAL orders to U S WEST's payphone marketing personnel.

The Commission agrees with NWPPA that U S WEST is the only payphone provider with the ability to delay the installation of public access lines. However, the Commission believes that the company has established a policy that prevents information on PAL orders from being accessed by payphone marketing personnel. The basis for this allegation appears to be a contract between Southland Corporation and U S WEST. It is Commission policy not to interfere in such contracts, just as the Commission does not interfere in contracts between competitive payphone providers and location providers.

Except for the Southland Corporation example, the complainants failed to substantiate instances of U S WEST intentionally delaying installation of public access lines. Therefore, the Commission will take no action on the allegations that the company discriminates in either installation of payphone service requests or misuses customer proprietary information. The company's assurances that policies exist to prevent misuse of proprietary marketing information, and the Commission's quality of service rules governing installation of new services, should sufficiently protect complainants.

D. Advertising Practices

The complaint alleges U S WEST has made claims in its advertising that unfairly and deceptively disparage the service of competitive payphone providers. The NWPPA requests the Commission prohibit U S WEST from using unfair or misleading advertising. They also seek protection against U S WEST's advertising which takes advantage of the price squeeze it has created, or the inferior service it provides complainants.

U S WEST denies all allegations of unfair advertising, and additionally argues that the alleged detrimental advertising is no longer in place. U S WEST also contends the Commission has no authority to grant the requested relief.

The Commission will take no action with respect to the allegation that U S WEST's advertising has been unfair and misleading. The Commission does not believe it is the proper authority to judge whether advertising is unfair or deceptive. In response to questions from the bench, NWPPA witness Mr. Coulson agreed that the courts are a better place to resolve claims of unfair advertising.

E. Effect of long-term contracts on price squeeze

The complainants argue that current location providers under contract with U S WEST should be allowed a "fresh look" at their choice of payphone provider without incurring penalties for rescinding their contract. They argue this is necessarily part and parcel of requiring U S WEST to pass the proper imputation test. Otherwise, current customers will be locked into contracts that only exacerbate the price squeeze, and many more years must pass before the public payphone market sees the full benefit of fair competition.

U S WEST responds that the Commission has no authority to grant this relief, even if it were desirable and in the public interest.

As previously stated, the Commission ordinarily refrains from interfering in contracts between U S WEST and its customers. The Commission therefore will take no action with respect to the contracts between U S WEST and its location providers.

E. Use of Public Access Lines

Complainants allege that the "one payphone per PAL" requirement is inefficient and places them at a competitive disadvantage. WAC 480-120-138(13) requires subscribers to order separate public access lines for each pay telephone installed. U S WEST has incorporated this language into its tariffs. The complainants argue that since the PAL rate is such a large portion of their costs, the rule in effect drives their costs. They request the Commission initiate a rulemaking proceeding to amend this rule to provide reasonable circumstances and conditions which would permit the attachment of more than one payphone per public access line.

The Commission is concerned that public payphone service be provided in the most efficient manner possible. However, the Commission is not convinced by the evidence presented here that a rulemaking to eliminate the existing rule requirement is necessary. If competitive payphone providers can prove to the Commission that the one payphone per public access line rule is not in the public interest, then a waiver of WAC

480-120-138(13) could be granted.<sup>34</sup> The Commission will utilize the information from specific waiver requests to determine if an amendment to WAC 480-120-138(13) is necessary.

Having discussed above in detail both the oral and documentary evidence concerning all material matters, and having stated findings and conclusions, the Commission now makes the following summary of those facts and conclusions. Those portions of the preceding detailed findings pertaining to the ultimate findings and conclusions are incorporated by this reference.

### *FINDINGS OF FACT*

1. The Washington Utilities and Transportation Commission is an agency of the state of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including telecommunications companies.

2. The complainants, Northwest Payphone Association by and through its individual members, are engaged in the business of furnishing payphone telecommunications services within the state of Washington.

3. Respondent U S WEST Communications, Inc., is engaged in the business of furnishing telecommunications service within the state of Washington as a public service company.

4. The Commission may require an imputation test whenever competition, or emerging competition, exists for U S WEST services, and competitors are wholly dependent upon U S WEST for essential monopoly inputs in order to provide service.

5. The imputation test for the public payphone service market should include these expense elements: (1) the tariffed public access line rate and extended area service additive; (2) the federally-mandated subscriber line charge; (3) the tariffed rate for Answer Supervision - Line Side (AS-LS) and Billed Number Screening; (4) amortization of non-recurring charges; (5) amortization of the terminal equipment and enclosures costs; (6) long-run incremental costs for sales, public administration, advertising, refunds, and coin collection; and (7) access line surcharges such as Enhanced 9-1-1 (E911), Washington Telephone Assistance Program (WTAP) and Telecommunications Relay Service (TRS).

---

<sup>34</sup> In granting a waiver of WAC 480-120-138(13), the Commission would also require U S WEST to waive its tariff provisions to permit attachment of more than one phone per public access line.

6. The imputation test for the public payphone service market should not include these revenue and expense elements: (1) "public policy" phones; (2) directory assistance revenues and expenses; (3) U S WEST Direct revenues; and (4) toll and operator services revenues and expenses.

7. Based upon the Commission's imputation test, the cost of a local telephone call is greater than \$0.25, and the complainants have substantiated their allegation that they are subject to a price squeeze in the public payphone service market. The Commission should eliminate the price squeeze by reducing the price of essential monopoly inputs in the public payphone services market:

A. Because a public access line is technically and functionally equivalent to a simple business line, the monthly recurring rate for both services should be the same and in each rate group and the PAL message rate should be eliminated; and

B. The monthly recurring rate for answer supervision-line side service should be reduced from \$3.95 to \$1.00.

8. The Commission should not require U S WEST to transfer its public payphone operation to a separate subsidiary, nor should the company be required to file an annual imputation cost study.

9. U S WEST should not be required to compensate competitive payphone providers for non-sent paid calls.

10. U S WEST discriminates in the provision of network public payphone services. The company should respond in writing within 120 days to all legitimate requests for any network services from competitive payphone providers. The company should implement the request by offering the service under tariff, if the service is feasible based upon current technology and if forecasted demand is sufficient to permit U S WEST to recover its costs of providing the service.

11. The Commission is not the appropriate agency to decide claims of deceptive and unfair advertising.

12. The Commission should not interfere with contracts between U S WEST and payphone location providers.

13. A rulemaking to amend WAC 480-120-138(13) is premature at this time, but waiver of the rule's requirement is appropriate if proven to be in the public interest. The Commission prospectively may determine from specific waiver requests that amendment of the rule is necessary.

CONCLUSIONS OF LAW

1. The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and the parties to, this proceeding.

2. The Commission should require U S WEST to file a new Public Access Line tariff to conform prices with the simple business line rates in each of the existing three business line rate groups, and to eliminate the message rate.

3. The Commission should require U S WEST to lower the monthly recurring answer supervision-line side rate from \$3.95 to \$1.00.

4. U S WEST should be required to respond in writing within 120 days of a request for network public payphone services, and to offer services under tariff within 180 days if technically and economically feasible.

O R D E R

THE COMMISSION ORDERS:

1. U S WEST must file a new PAL tariff within 20 days of this order to conform the monthly recurring rates for this service with the simple business line rates in each of the company's three existing rate groups, and to eliminate the message rate;

2. U S WEST must file a new AS-LS tariff within 20 days of this order to reduce the monthly recurring rate from \$3.95 to \$1.00; and,

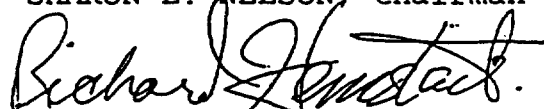
3. U S WEST must develop internal company policies to respond to legitimate requests for network services to support competitive public payphones within 120 days of such request, and must offer such services under tariff within 180 days if the service is technically feasible and recovers the company's costs of providing the service.

DATED at Olympia, Washington, and effective this 17<sup>th</sup> day of March 1995.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



SHARON L. NELSON, Chairman



RICHARD HEMSTAD, Commissioner

NOTICE TO PARTIES:

This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).





**ORDER OF THE ILLINOIS COMMERCE COMMISSION**

**DOCKET NO. 88-0412**

**JUNE 7, 1995**

STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

---

June 9, 1995

Re: 88-0412

Dear Sir/Madam:

Enclosed is a certified copy of the Order entered by this Commission.

Sincerely,

*Donna M. Caton*

Donna M. Caton  
Chief Clerk

Enc.

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Independent Coin Payphone :  
Association and :  
Total Communication Services, Inc.:  
-vs- :  
Illinois Bell Telephone Company : 88-0412  
Complaint to reclassify Illinois :  
Bell Telephone Company pay :  
telephone services as a compet- :  
itive service in Illinois Market. :

ORDER

June 7, 1995

TABLE OF CONTENTS

88-0412

I.	INTRODUCTION. . . . .	3
II.	DESCRIPTION OF THE TESTIMONY. . . . .	4
III.	COMMISSION DISCUSSION AND CONCLUSIONS . . . . .	19
IV.	COMMISSION'S FINDINGS AND ORDERS. . . . .	24

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Independent Coin Payphone :  
Association and :  
Total Communication Services, Inc.:  
-vs- :  
Illinois Bell Telephone Company : 88-0412  
Complaint to reclassify Illinois :  
Bell Telephone Company pay :  
telephone services as a compet- :  
itive service in Illinois Market. :

ORDER

By the Commission:

On December 23, 1988, the Independent Coin Payphone Association n/k/a the Illinois Public Telecommunications Association ("Payphone Association"), and Total Communication Services, Inc., filed this complaint against Illinois Bell Telephone Company ("Illinois Bell"). On June 19, 1990, U.S. Communications of Illinois, Inc. was added as a complainant. The original complaint sought an order from the Commission classifying Illinois Bell's pay telephone services as competitive services, as defined in Sections 13-209 and 13-502(b) of the Public Utilities Act, and demanding additional relief. The Payphone Association filed an amended complaint on February 23, 1989, limited to the request that Illinois Bell payphone services be classified competitive. The Commission stayed the proceeding on April 19, 1989. Upon lifting the stay, the complaint proceeded on the basis of addressing the classification issue and all matters that arose therefrom.

At various times throughout the proceeding, the following were granted leave to intervene in the proceeding: Central Telephone Company of Illinois ("Centel"); Illinois Telephone Company ("Illinois Telephone"); Kalyh Payphone Company ("Kalyh"); Quick Call, Inc. ("Quick Call"); American Pay Telephone Company ("American"); MCI Communications Corporation ("MCI"); the People of Cook County Illinois, ex. rel. Jack O'Malley, States Attorney ("Cook County"); Illinois Office of Public Counsel ("OPC"); and the People of the State of Illinois through the Illinois Attorney General ("Attorney General").

Centel withdrew as an intervenor in March, 1990. On October 15, 1992, counsel for the Payphone Association filed notice that it was withdrawing as counsel for Total Communication Services, Inc. and for U.S. Communications of Illinois, Inc. since each company had terminated its membership in the Payphone Association. Each

company was served with notice of the withdrawal. Neither Total Communication Services, Inc. nor U.S. Communications of Illinois, Inc. has since participated in the proceeding. OPC withdrew as an intervenor in August, 1993.

Pursuant to notice duly given as required by law in the rules and regulations of this Commission, hearings were initially held in this matter before a duly authorized Hearing Examiner at the offices of the Commission in Chicago, Illinois on February 17 and 24, and April 10, 1989.

On April 19, 1989, the Commission ordered that this proceeding be held in abeyance as a result of a Commission Resolution in Docket No. 89-0125. The Resolution initiated a statewide investigation into the issues of the classification of local exchange company ("LEC") payphones. The Commission Staff held workshops in Docket No. 89-0125 from May through December, 1989. On February 27, 1990, the Commission concluded that Docket No. 89-0125 should be held in abeyance and that the resolution of the Payphone Association complaint in the instant docket should proceed on the proper classification of Illinois Bell's payphones and on all matters which flowed from that classification.

Further hearings were held on this docket on November 20, 1989; February 27, March 23, June 28, September 18, and December 18-20, 1990; January 10 and 16, March 14, May 20, June 5 and 12, September 4, November 13-15, and December 18-20, 1991; February 4-5, and March 11, 1992. On March 11, 1992 the record was marked "Heard and Taken."

Extensive testimonial and documentary evidence was taken on numerous issues. Martin S. Segal, founder and President of the Payphone Association, and Dr. Nina W. Cornell, an economist and the former Federal Communications Commission ("FCC") Chief of the Office of Plannings and Policy, testified for the Payphone Association. The Payphone Association filed direct, supplemental direct, rebuttal, surrebuttal, and sursurrebuttal testimony. Testifying on behalf of Illinois Bell were David H. Gebhardt, Illinois Bell Senior Director--Regulatory; Richard E. Krock, Director of Illinois Bell's Maintenance Engineering and Electronic Systems Assistance Centers; Eric L. Panfil, Staff Manager--Regulatory; and Dr. William E. Taylor, economist and Vice President of National Economic Research Associates. Illinois Bell filed direct, supplemental direct, and rebuttal testimony. Calvin S. Monson, Director of the Telecommunications Program of the Office of Policy and Planning for the Commission appeared on behalf of the Staff of the Commission ("Staff"). The Staff filed direct and surrebuttal testimony. The Hearing Examiner took administrative notice of the record in Commission Docket No. 90-0264 and of the

record testimony and cross examination of Staff witness Meena Thomas in Commission Docket No. 89-0033 (Remand).

An Initial Brief was filed in this proceeding by the Payphone Association on April 17, 1992. Response Briefs were filed by MCI on May 22, 1992, Illinois Bell on May 26, 1992, Cook County on June 1, 1992, and Staff on August 5, 1992. The Payphone Association filed its Reply Brief on May 10, 1993. Separate Draft Proposed Orders were filed by the Payphone Association and Illinois Bell on August 30, 1993.

In September, 1994 the Hearing Examiner reopened the record for the limited purpose of submitting certain questions to the parties. A Hearing Examiner's data request was issued to the parties for calculation of imputation tests and aggregate revenue tests based on alternative assumptions of the resolution of issues in the record. The Payphone Association and Illinois Bell filed responses to the data request. No other party submitted calculations.

Subsequent to these filings, the Payphone Association and Illinois Bell again entered into negotiations in an attempt both to identify which issues had been resolved during the course of the proceedings and to resolve the remaining open issues. Pursuant to the matters of record and those negotiations, the Payphone Association and Illinois Bell entered into and submitted a Stipulation and a Joint Draft Proposed Order on May 22, 1995.

After the filing of the Joint Draft Proposed Order, the Hearing Examiner issued a Proposed Order which was served on all the parties.

## I. INTRODUCTION

The Payphone Association's original complaint challenged the classification of Illinois Bell's payphones and sought relief arising from a classification of Illinois Bell's payphones as competitive. In the amended complaint, to address the limited time for hearings, the Payphone Association amended its request to only a determination of the proper classification. However, the Hearing Examiner, at the request of Staff and Illinois Bell, found that it was necessary to study all the implications of the competitive classification. The Commission agreed, staying the instant complaint and opening Docket No. 89-0125 for a statewide investigation of the proper classification of LEC payphones and of the implications of classifying LEC payphones as competitive. After workshops, it was agreed that the statewide proceeding should be stayed and that the Payphone Association complaint should

proceed on the proper classification of Illinois Bell's payphones statewide and on all matters which flowed from that classification.

These issues included: (1) the proper classification of Illinois Bell's payphone service; (2) the adequacy of the network services provided by Illinois Bell to non-LEC payphone providers; (3) the proper treatment of Illinois Bell operator services revenues in connection with its payphones; (4) the proper treatment of Illinois Bell operator services revenues in connection with non-Illinois Bell payphones; (5) the appropriate rate treatment of directory assistance provided from payphones; (6) the validity of Illinois Bell's service cost and imputation studies for payphone service; (7) the adequacy of Illinois Bell's prices for payphone service under the imputation and cross-subsidy provisions of the Act; (8) whether Illinois Bell should be required to place its payphone operations in a separate subsidiary; (9) the proper classification of Illinois Bell's billing and collection services; (10) discrimination; (11) past compensation; and (12) a variety of other rate and service issues.

Comprehensive testimonial and documentary evidence was submitted during the hearings addressing various issues regarding the relationships between the parties and the proper structure of payphone services. After the conclusion of the hearings, the Payphone Association and Illinois Bell entered into a stipulation and agreement resolving the Payphone Association's complaint. Although the Commission relies upon the entire record, we will only summarize the evidence regarding the issues addressed below.

## **II. DESCRIPTION OF THE TESTIMONY**

### **A. Payphone Association's Direct Testimony**

Martin S. Segal, President of the Payphone Association, testified that by the end of 1988 over one hundred certificates of service authority had been granted by the Commission to telecommunications providers providing public pay telephone service in Illinois. Approximately one-half of those providers were in MSA-1. Over nine thousand public payphones had been registered with the Commission in MSA-1.

Mr. Segal identified two groups of customers for pay telephone service: the location owners, where the payphones are placed, and the end users of the pay telephone service. Mr. Segal testified as to various locations where payphones were provided by more than one company.



**B. Payphone Association's Supplemental Direct Testimony**

After the stay on the instant proceeding was lifted, Mr. Segal further testified that the Payphone Association sought the classification of Illinois Bell's public payphones as a competitive service and enforcement of the Act's requirement that competitive service providers receive noncompetitive services under the same rates, terms and conditions without discrimination or cross-subsidization. He stated that such enforcement would provide a competitive payphone market open to rapid advancements for the public benefit. Mr. Segal testified that non-LEC payphones are willing to place payphones at any location given a revenue justification or a public service need. Currently, non-LEC payphones provide payphones for public policy purposes at such locations as parks, churches, and synagogues where revenue traffic would not otherwise justify. Non-LEC payphones were willing to take a proportionate share of any public policy locations as determined by the Commission in the interest of promoting universal service.

Mr. Segal testified that the main problem posed by Illinois Bell's misclassification was the treatment of non-sent paid revenues. Non-sent paid revenues are revenues in which the end user pays for a call through some means other than cash at the time of transmission. This typically occurs when end users place their call through an operator assisted service whereby the operator arranges for a billing of the call and collecting the revenues. None of the revenues received by Illinois Bell's noncompetitive operator services from the non-sent paid calls made over the non-LEC payphone facilities return to the provider of the payphone. When the same call is completed over an Illinois Bell payphone using Illinois Bell's operator services, those non-sent paid revenues are received by Illinois Bell's payphone service and used in unfair competition against non-Bell payphone providers. Mr. Segal testified that the Commission should determine that either 100% of the non-sent paid revenues belong to the payphones, or none of the non-sent paid revenues belong to the payphones but belong to the local exchange. In the alternative, the Commission should identify what portion of the non-sent paid revenues belong to the payphone and require that this portion be given uniformly to Illinois Bell and non-LEC payphones alike. If the Commission determines that 100% of the non-sent paid revenues belong to the local exchange, then all pay telephone providers were entitled to an access fee from the local exchange as an interconnecting carrier providing the LEC with access to its end users.

According to Mr. Segal, the Commission should review Illinois Bell's payphone rate which has not been reviewed since ICC Docket No. 83-0005 and had been omitted from the Illinois Bell rate case